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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Djibouti, submitted pursuant to paragraph 6 of resolution 1373 (2001).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council (see annex).

(*Signed*) Jeremy **Greenstock**
Chairman of the Counter-Terrorism Committee

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Annex

Letter dated 27 December 2001 from the Permanent Representative of Djibouti to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I have the honour to transmit to you herewith a letter from the Minister for Foreign Affairs and International Cooperation, H.E. Mr. Ali Abdi Farah, and the report of the Republic of Djibouti, in conformity with paragraph 6 of Security Council resolution 1373 (2001).

My Government remains available to provide any supplementary information that the Committee deems necessary.

(*Signed*) Roble **Olhaye**
Ambassador
Permanent Representative

Enclosure

Republic of Djibouti

National Counter-Terrorism Committee

National Counter-Terrorism Action Plan

December 2001

Presentation of the National Counter-Terrorism Action Plan

1. Foreword
2. Legal and judicial aspects of counter-terrorism
3. Counter-terrorism and national security
4. Combating money-laundering and the financing of terrorism
5. Communication strategy

Annex

Part I: Foreword

Terrorism is a threat to the security of people and property and to public order. For a long time, its true targets were largely the developed countries. Now, however, it has acquired a global reach; for this reason, the Republic of Djibouti, in the light of the tragedy suffered by the United States of America, must protect itself against this scourge.

The methods and means used by terrorists are essentially secret because the "success" of their actions depends on their suddenness and violence. Thus, they watch out for and invest areas in which the State has weaknesses or lacks means of coercion.

Vying with one another in ingenuity, they are employing multiple and ever more sophisticated resources to achieve their ends. There is thus a need to mobilize multiple resources to combat them, without giving way to panic. In the main, these resources must be centred on the prevention, control and suppression of terrorist acts, and cooperation with the international community.

Solving the problems linked to terrorism is primarily a political matter, in the sense that political action alone is capable of combating the human tragedies that foster terrorism and of providing durable solutions to them.

Suppression by the police can be effective only if it is backed up by unequivocal political will and a reliable system of prevention.

Thus, the day after the adoption by the United Nations Security Council of resolution 1373 (2001), the Djibouti Government, by presidential decree No. 2001-0193/PRE of 3 October 2001, established the National Counter-Terrorism Committee.

Under the leadership of the Ministry of Justice, the Committee is charged with considering the development and establishment of domestic counter-terrorism mechanisms and, to that end, has broad prerogatives with respect to the prevention and suppression of any terrorist act. The Committee is also responsible for ensuring respect for international commitments and adherence to international conventions and protocols concerning terrorism.

The Committee is divided into several subcommittees:

- The first is charged with defining the legal framework for combating terrorism (part II);
- The second is responsible for studying the resources necessary and the initiatives to be undertaken in the area of national security (part III);
- The third is required to develop a strategy for combating money-laundering and the financing of terrorism (part IV).

In order to promote the Government's efforts to combat terrorism, it has been decided to develop a dynamic communication strategy, in particular through the creation of a web site to group together all documents relating to the activities of the National Counter-Terrorism Committee (part V).

Part II: Legal and judicial aspects of counter-terrorism

1. Introduction

The subcommittee charged with studying the legal framework for combating terrorism is to consider and propose legal norms and judicial measures for the suppression of terrorist acts that are in step with the phenomenon's recent evolution throughout the world.

Its task is based on several principles:

- Condemning and combating terrorism in all its forms, whoever the perpetrators and whatever their motives;
- Showing that the fight against terrorism is an urgent necessity because public order and territorial integrity, even respect for human rights and fundamental freedoms depend on it;
- Demonstrating also that the State has sufficiently far-reaching means of coercion to deter or punish terrorist undertakings.

2. Objectives

The objectives of the legal and judicial action plan to combat terrorism are, first, to define a legal framework in conformity with international law and national sovereignty and, second, to put in place, at the level of the judiciary, coherent and effective law-enforcement mechanisms.

2.1 Immediate objectives

For the moment, the attention of the National Counter-Terrorism Committee is focused in two directions:

- With regard to the legal aspect: domestic and international texts must be harmonized with a view to creating modern legislation in step with current requirements in the area of terrorism;
- With regard to the judicial aspect: as a complement to the previous point, there is a need to establish law-enforcement institutions that are effective against terrorist activity.

2.1.1 Legal aspect

Regarding domestic law, the 1995 Penal Code severely punishes terrorism, which is dealt with in articles 167 to 171. Articles 167 and 168 characterize terrorism as "the desire to disturb [the peace] through intimidation and terror by blindly attacking the security of people and property". However, the Penal Code's definition of terrorism was deemed unsuitable by the members of the National Counter-Terrorism Committee, particularly in the light of the phenomenon's recent evolution.

As to international law, the Republic of Djibouti, in keeping with its sovereignty, must ratify all supranational provisions on counter-terrorism.

It has already participated, in October 2001, in the drafting and adoption of the Dakar Declaration against Terrorism. It has also signed and ratified the Arab Convention for the Suppression of Terrorism. Twelve other conventions have been recommended to it by the United Nations Secretariat, the European Union and the United States of America. After their ratification, all these texts will be incorporated in Djibouti's positive law and will thus help bring it up to date.

2.1.2 Judicial aspect

With regard to the judicial strategy, it is first necessary to designate the officials responsible for the suppression of terrorism. Under the Code of Penal Procedure, the public right of action is devolved upon the Government Prosecutor and the Prosecutor-General. For greater efficiency, all the actions taken within the framework of the National Counter-Terrorism Committee should be grouped together under the responsibility of the prosecutors, so as to create a single centre of impetus. Thus streamlined, judicial action to combat terrorism will present, from a domestic viewpoint, a simple and effective "master outline" and, where international cooperation is concerned, a single entity with which the fight against terrorism in Djibouti will be easily identified (following the example of Judge Bruguière in France).

2.2 Longer-term objectives

- To equip the legal arsenal with an anti-terrorism law providing mechanisms for cooperation among the various actors in the fight against terrorism. At the same time, this law must define the framework for international cooperation. It could be popularized through symposiums and other workshops;
- To create anti-terrorism sections in the Djibouti prosecutor's and examining magistrate's offices. These sections will consist of members of the judiciary who will receive training in terrorism issues so as to be able to categorize suspicious actions in legal terms by identifying the links with the criminal provisions in force.

3. Measures

- Updating of the definition of terrorism in the light of recent events, and revision of the Penal Code;
- From an international viewpoint, most of the measures entail bringing the positive law into line with the international legal order. Thus, the Republic of Djibouti has already signed eight international conventions in force, including most recently the Arab Convention for the Suppression of Terrorism, which has been signed and ratified, and the International Convention for the Suppression of the Financing of Terrorism, signed on 15 November 2001;
- In connection with the objectives of the judicial plan, there is a need to supplement the training of members of the judiciary with the study of specialized judgements in terrorist cases. Likewise, the specialized units of the criminal investigation police are to receive appropriate training in counter-terrorism. The same steps are being taken within the National Gendarmerie

(Research and Documentation Service), so as to enable it to conduct in a diligent manner inquiries in terrorist cases;

- Reform of the Criminal Court and introduction of a body for rendering verdicts in terrorist cases consisting solely of professional magistrates. Unlike offences under ordinary law, where verdicts are reached by a jury consisting of professional magistrates and jurors, terrorist cases must be tried exclusively by magistrates in order to ensure greater rigour;

- Signature and ratification of all the supranational conventions proposed by the international community (see annex).

4. Available resources

The human resources that can be mobilized immediately are:

- Members of the judiciary and officers of the criminal investigation police: having undergone solid legal and technical training, they will form the core of the judicial apparatus;

- Specialists in financial analysis from the Djibouti Central Bank could also intervene in the judicial process as experts.

5. Human and material needs

Additional training will be required for some members of the judiciary and officers of the criminal investigation police and basic training for others, including in terrorism issues. In order to meet this need, the following will be needed:

- Basic training: four members of the judiciary, namely, two judges and two Government prosecutors;

- Seminars in Djibouti and abroad: 10 members of the judiciary (five judges and five Government prosecutors);

- Training in techniques for investigating and tracking down terrorists: 10 officers each from the criminal investigation police and the National Gendarmerie;

- Four clerks of the court will also be trained to carry out the administrative work resulting from the creation of the anti-terrorist section;

- Equipping of two separate offices: one for the members of the judiciary and the clerks and the other for the officers of the criminal investigation police;

- Creation of an Internet site for the purpose of cooperation and communication with the rest of the world.

Part III: Counter-terrorism and national security

1. Introduction

The Republic of Djibouti is determined to contribute fully to counter-terrorism activities and, to that end, to mobilize all the means available to it to prevent and curb terrorist acts in its territory.

In order to achieve that, the subcommittee of the National Counter-Terrorism Committee responsible for security will, in particular, have to draft regulations for the effective combating and suppression of terrorist threats, both nationally and internationally.

From the point of view of security, counter-terrorism is based on a number of elements:

- Remedying the human, political and social crises on which terrorism feeds;
- Emphasizing that all-out opposition to terrorism is compatible with respect for human rights and fundamental freedoms;
- Responding in a manner that involves the judiciary and the police.

2. Objectives

The section of the counter-terrorism action plan relating to national security involves an effort to define, as accurately as possible, the practical measures to be taken to prevent and suppress terrorist activities both abroad and in the national territory.

2.1 Immediate objectives

To identify activities involving terrorism, given that terrorism is tending to diversify and become increasingly sophisticated and in view of the difficulty of responding to it appropriately:

- To protect the public and the institutions of the Republic against terrorist threats;
- To make the current civil protection and national security arrangements fully operational;
- To strengthen the protection of strategic economic, industrial and institutional facilities in the national territory, particularly those in the capital, which are vulnerable and high-profile targets for terrorist attacks (the international autonomous port of Djibouti, Djibouti international airport, Djibouti radio and television, oil installations, the Djibouti Central Bank, the National Treasury, the Djibouti Electricity Company, the National Water Company of Djibouti, the Gabode civilian prison and international diplomatic institutions and missions);
- To conduct a campaign to raise the awareness of the authorities in charge of locations that are categorized as strategic and at risk so as to make them more responsive and elicit greater collaboration on their part;

- To ensure the availability of rapid and effective means of reaction to deal with terrorist acts;
- To define the framework of international cooperation, particularly with respect to the exchange of information and cooperation between different police services.

2.2 Longer-term objectives

- To establish a National Security Monitoring Agency incorporating on a permanent basis all features necessary for counter-terrorism and capable of coordinating the various mechanisms established for that purpose;
- To remove all threat of terrorism in the national territory so as to ensure the safety of the population and public order and to enhance the future reputation of the Republic of Djibouti, which is known in the region, above all, for its stability and tranquillity.

3. Measures

3.1 Preventive counter-terrorism measures

Counter-terrorism necessitates the adoption of a number of preventive measures.

3.1.1 Need for an effective information system

- To provide information and data on a continuing basis to the governmental authorities in order to detect and prevent any terrorist threat;
- To exchange items of information in real time among services in order to be able to analyse the various threats jointly and in a coordinated manner;
- To exercise more effective control over the communication and information networks;
- To create a central data file on the identity, origin and activities of individuals to be kept under surveillance (Interpol).

3.1.2 Improving the effectiveness of the investigation services

- To adopt a provision to allow greater freedom to the security services in conducting searches;
- To strengthen the resources of the technical and scientific police laboratory;
- To encourage collaboration between the various actors involved in security and counter-terrorism in order to enhance their effectiveness.

3.1.3 Monitoring access to vulnerable locations

- To monitor passengers entering the embarkation areas of airports and seaports;
- To make use of precautionary means of controlling access (frames, metal detectors, and other means of detection);

- To involve private security officers, subject to their being given special training, in control duties;

- To provide rapid means of communication to call for further assistance in the event of any serious threat to public safety.

3.1.4 Establishing the legal framework for public inquiries

- To ensure that persons directly involved with security arrangements are of good character, particularly at the time of their recruitment;

- To regulate more effectively the utilization of equipment or substances of a dangerous nature, particularly the carrying of weapons;

- To establish procedures for the taking of decisions to authorize access to vulnerable protected areas such as airports, seaports and oil installations.

3.1.5 Setting up a National Security Monitoring Agency

This body, comprising specialists in public safety and finance, will:

- Prevent, detect and characterize terrorist activities;

- Formulate recommendations to the National Counter-Terrorism Committee, either as a preventive measure or on request.

As decisions on actions to be taken are the responsibility of the National Counter-Terrorism Committee, the National Security Monitoring Agency will remain a body for the analysis and management of terrorist threats on behalf of the Committee, but will in no case be a decision-making body.

3.2 Law enforcement measures

Creating a counter-terrorism section for prevention and law enforcement in order:

- To ensure good coordination between the information services and the criminal investigation police services;

- To facilitate exchanges of information between services responsible for counter-terrorism investigations, for taking measures against terrorist networks or groups and for the surveillance of individuals deemed to be dangerous.

Preparing a draft counter-terrorism act and drafting decrees for the implementation of the act defining the fields of competence of the various actors involved in counter-terrorism (including access to and exploitation of information gathered).

3.3 National and international cooperation measures

Administrative cooperation: exchanges of information of a general nature (participation in international organizations in order to gain familiarity with counter-terrorism techniques) and exchanges between counter-terrorism authorities of information specific to certain persons;

Judicial cooperation: measures to facilitate the provision of assistance to the judicial authorities of another country (including assistance with investigations,

legal proceedings, requests for information or for the seizure or confiscation of dangerous substances or for extradition).

4. Available resources

Counter-terrorism measures will rely mainly on conventional internal security procedures which will need to be supplemented and adapted to counter terrorism. The various services of the criminal investigation and administrative police will be so structured as to complement each other's traditional fields of competence.

4.1 The national police force

4.1.1 The criminal investigation police

The criminal investigation police comprises the Crime Squad, the Central Bureau for Drug Abuse Control, the Economic and Financial Investigation Brigade and the National Central Bureau for Interpol. Under the responsibility of the Prosecutor of the Republic or, in terms of the Code of Criminal Procedure under the responsibility of the General Prosecutor and the Prosecutor of the Republic, the criminal investigation police will have full authority to investigate criminal offences.

4.1.2 The police units of the district of Djibouti

4.1.2.1 The administrative police

The police stations throughout the capital provide a basic level of surveillance and alertness. They form an important supporting network for the deployment of counter-terrorism operations, thereby also helping to combat ordinary crime and monitor the circulation of light weapons.

4.1.2.2 Government services

The government services will be an important source of information to be contributed to the central database held by Interpol. In the main, these services are involved with the issuance of travel documents, with general information and civil registration documents.

4.1.3 The frontier and immigration police

This police force is an important link in the arrangements for prevention and suppression since it provides a means of monitoring and controlling the movement of people travelling from and to the most important destinations (Ethiopia, Somalia, and so forth). The frontier and immigration police comprises the airport detachment, the port detachment and the land frontier detachment: Loyada, Galileh, Galafi.

4.2 The armed forces of Djibouti

The worst-case scenarios drawn up by the Security Subcommittee have shown that port and airport facilities remain particularly vulnerable to terrorist attack. For this reason, the naval and air force commando sections of the Djibouti armed forces will be mobilized to supplement the counter-terrorism measures. These two

appropriately equipped units have the task of strengthening the protection of the territory and covering the territorial waters and airspace.

4.3 The National Gendarmerie

Surveillance of the main locations concerned is above all the responsibility of the National Gendarmerie which comprises a multi-purpose intervention unit, a maritime branch and an air transport branch.

5. Requirements in terms of human resources and equipment

Human resources, together with their remuneration and their equipment, will be provided by the Government of Djibouti. Use will be made of technical assistance and international cooperation to train the various teams mobilized and established on the initiative of the National Counter-Terrorism Committee.

Part IV: Combating money-laundering[1] and the financing of terrorism

1. Introduction

Using the preventive and repressive measures at its disposal, the financial sector should combine forces to detect and eliminate fraudulent sources of financing that fuel terrorist operations.

Djibouti's financial market has thus far been spared, but it could one day be used as a transit point for suspect funds. Djibouti must thus evolve an effective system for preventing and combating the phenomenon.

The financial sector component of the action plan will incorporate three major stages. Initially, it will be a question of adopting provisions for the establishment of a powerful mechanism for monitoring terrorist activities in economic sectors; subsequently, of setting up bodies entrusted with conducting such work; and, finally, of ascertaining available resources and those funds which will need to be sought through bilateral and multilateral cooperation mechanisms.

Concerning banking institutions, it will be a matter of strengthening existing legal provisions to enhance prevention of the transactions in question and of establishing an oversight and financial intelligence mechanism. This body will collect reports and evidence of suspect transactions from bankers and other financial intermediaries.

With regard to non-banking institutions, including those in the informal sector, priority must be accorded to on-site checks and to the elaboration of regulations that make it obligatory to provide statistics and incorporate sanctions for non-compliance. Since payment methods are poorly developed in the region, commercial transactions usually occur in cash. In tandem with international

[1] Money-laundering, according to the definition adopted by Interpol, designates any act or attempted act designed to conceal or disguise the identity of illegally obtained proceeds so that they appear to have originated from legitimate sources.

cooperation, there is thus also a need for closer links with our main trade partners to be able to organize work in this field.

2. Objectives

2.1 Immediate objectives

In order to effectively combat money-laundering and the financing of terrorism, a number of legal and regulatory instruments are required, involving:

- Adoption of an anti-money-laundering act establishing a precise definition of money-laundering and detailing professions affected by the phenomenon. In addition to a sanctions component, the act would also include a preventive component involving banking and non-banking financial institutions in efforts to combat suspect transactions and terrorism financing;
- Elaboration of regulations which would require persons in the financial professions to report to their parent authority all suspect transactions or unusual activities on the part of their clients. The same regulations would also protect cooperating financial institutions (their directors and employers) from all criminal or civil liability for violating rules of confidentiality;
- Preparations for holding information and awareness-raising symposia on money-laundering and terrorism financing for the benefit of the authorities and the private sector;
- Strengthening the scrutiny and monitoring system already in place, including strict enforcement of prudential regulations for financial institutions, and on-site scrutiny of individual fund transfer activities (foreign-exchange brokers, "hawala");
- Establishment of a central database of bank accounts containing originator information: family name, first name and date and place of birth of the account holder, account type and the date on which the account was opened;
- Establishment of a financial investigations office within the Djibouti Central Bank. This unit would constitute the focal point at the national level for information exchange on efforts to combat money-laundering and terrorism financing;
- Carrying out the special recommendations of the Financial Action Task Force on Money Laundering (FATF) in order to consolidate the reputation of Djibouti's financial market.

2.2 Longer-term objectives

- To set up comprehensive mechanisms for combating money-laundering and terrorism financing, including broadening the scope of the anti-money-laundering act to include all sectors of the economy;
- To strengthen international cooperation to facilitate the tracing of suspect capital flows.

3. Measures

3.1 Measures for involving the financial system in efforts to combat money-laundering and terrorism financing

The financial professions most at risk of being used for money-laundering and terrorism financing are:

- Banks;
- Financial corporations (finance companies, fund transfer companies);
- Non-automated exchange offices;
- Investment firms (brokerage firms);
- Insurance companies and brokers.

The following professions should also not be overlooked, either because they habitually carry out sizeable cash transactions or because they conduct non-financial transactions liable to be used by criminals for money-laundering and the financing of terrorism:

- Casinos;
- House market professionals (estate agents, lawyers);
- Solicitors, legal advisers;
- Chartered accountants and financial advisers.

Professions that may be used for money-laundering and terrorism financing should be subjected to preventive measures and scrutiny requirements.

3.1.1 Preventive measures for combating money-laundering and terrorism financing

- There is a need for legislation and regulations applicable to financial institutions and entities conducting or advising on financial transactions, as well as a system for monitoring compliance by the latter with existing regulations, with possible recourse to sanctions;
- There is also a need to make certain financial transactions (bank transactions, investment or insurance services, etc.) dependent on approval by higher authorities.

3.1.2 Scrutiny requirements for professions that may be used for money-laundering and terrorism financing

- There should be an obligation to identify a client at the outset of a business relationship that involves the opening of any account or a request for services, including the renting of safe deposit boxes, and occasional clients for sums above a certain amount, and to conduct identity checks (with separate procedures for checking the identity of juridical and physical persons);
- Notification of suspect transactions or sums should be made compulsory; anti-money-laundering officials should be made responsible for drawing up and transmitting notifications of suspicion; failure to transmit a notification of suspicion should be made punishable; an establishment that has submitted a

notification of suspicion should be protected from legal proceedings; the parameters for making notification of suspicion obligatory should be determined; and informing a client of such notification should be prohibited;

- There should be special scrutiny of the following transactions and the results should be recorded in written form: transactions that are complex, unusual, unexplained, or involve large sums of money should generate a written statement of the details of the transaction and the creation of a database at the disposal of the financial investigations office and oversight authority. This database should, in particular, contain information on the transaction originator, the transaction beneficiary and the source and destination of the funds;

- The following internal scrutiny measures should be made compulsory: definition of procedures for applying scrutiny rules; staff training; preservation of all information to ensure that it is traceable; and persons responsible for implementing preventive measures to combat money-laundering and terrorism financing should establish internal procedures tailored to the specificities of their particular activity in order to meet the scrutiny requirements in this field.

3.1.3 Measures for implementation by authorities responsible for combating money-laundering and terrorism financing

- Establishment of a financial investigations office entrusted with receiving notifications of suspect transactions;

- Definition of the field of scrutiny, including domestic and offshore activities;

- Investigation capacity: lifting bank confidentiality vis-à-vis the administrative oversight authority and in-house access to information necessary for accomplishing its mandate (access to personal account details);

- Power to sanction: capacity to punish failure to comply with scrutiny requirements by those responsible and determine the nature of the punishment (penal, administrative);

- Means of oversight: adequate human resources for ensuring oversight of individual transactions (ongoing monitoring) and on-site supervision.

3.2 Cooperation measures

- Cooperation between national authorities for combating money-laundering and terrorism financing: good coordination and exchange of information between authorities responsible for conducting anti-terrorist investigations, suppressing money-laundering and monitoring financial and non-financial corporations;

- International cooperation:

  • Administrative cooperation: exchange of information of a general nature (participation in the work of international organizations to acquire techniques for combating money-laundering and terrorism financing) and exchange of information on specific operations or persons between anti-money-laundering and counter-terrorism authorities (lifting of the professional confidentiality of each national authority vis-à-vis its foreign counterparts);

- Legal cooperation: measures for rendering assistance to the judicial authorities of another country (assistance in respect of investigations, prosecution, information requests, seizure or confiscation of money-laundering proceeds, extradition, inter alia).

3.3 Other measures

- Establishment of oversight for physical imports or exports of cash (compulsory declaration when carrying sums over a certain amount);
- Reform of company law to prevent the illegal use of bodies with unknown owners or beneficiaries (front companies) by the originators of money-laundering transactions.

4. Available resources

The Djibouti Central Bank has a banking surveillance unit which monitors compliance with existing prudential regulations that are for the most part based on regulations adopted by the main international financial institutions.

On the basis of statements and periodic reports forwarded to it by banking and financial institutions, the Djibouti Central Bank endeavours to analyse potential vulnerabilities of institutions in Djibouti.

5. Requirements

With a view to strengthening its banking oversight capacity, the Central Bank is envisaging a supplementary training programme for its staff. To attain its objective of performing annual checks on all banks from 2002, the Bank will require technical assistance from international experts in the area of prudential regulations and financial assistance from donors to support its training programme.

With a view to combating money-laundering and terrorism financing, the Central Bank intends to establish a central database for reporting all cash transactions above a certain amount and will need financial assistance for that purpose (acquisition of software, training, etc.)

With the cooperation of international institutions, Djibouti's monetary authorities intend to establish an awareness-raising and training programme (seminars, symposia) for the benefit of directors and staff of financial and non-financial institutions (currency exchange offices, "hawala", etc.) in order to strengthen efforts to combat money-laundering.

Part V: Communication strategy

1. Introduction

Following the establishment of the National Counter-Terrorism Committee and in accordance with United Nations Security Council resolution 1373 (2001), a decision was taken to draw up a communication strategy for promoting the

Government's efforts. The establishment of a web site is a key component of the strategy.

2. Overview

This active web site would provide all information and documents concerning the National Counter-Terrorism Committee's activities.

2.1. Objectives

- To make information on counter-terrorism measures implemented by the Republic of Djibouti available to all persons and organizations concerned through new information technologies. All information will thus be made available through the web site, which will become the focal point and "information gateway";
- To conduct advocacy for the country's efforts in this field among third countries engaged in similar efforts as part of the international counter-terrorism coalition;
- Establish and consolidate cooperation links and exchanges of information with other committees.

2.2 Location of the project

The web site will be entirely designed in Djibouti using local expertise.

2.3 Responsibility

Once established, the site will be entirely managed by the National Counter-Terrorism Committee, which will therefore be solely responsible for the information published on the site.

3. Hosting

The site may be hosted by the Djibouti-Telecom server, which has proved to be satisfactory with regard to capacity and reliability.

4. Reach

The establishment of the web site will make the Committee a reliable and accessible "on-line" partner. The site will be included in the various counter-terrorism directories, and the Committee will accordingly be able to work in tandem with corresponding committees in other countries.

General conclusion

This study has made it possible to conduct an appraisal of the counter-terrorism tools at Djibouti's disposal and to highlight the country's requirements.

The action plan that it advocates is an important precondition for thematic and investigative work in the area of counter-terrorism. With a view to enhancing its scope, the plan will be refined and finalized in the context of technical workshops, with all concerned actors invited to participate.

To ensure that the National Counter-Terrorism Committee's efforts have a long-term impact, it must have a permanent secretariat responsible, inter alia, for the organization and coordination of the Committee's work.

The tools and measures described in this report are not immutable, but will by nature evolve with time. They will need to be strengthened and refined to respond to developments in the field of terrorism.

Vigilance and cooperation with the international community will permit the country to respond effectively to the problems caused by terrorism. This is a crucial element in the national response to terrorism, since, despite the efforts that it has undertaken, the Republic of Djibouti remains heavily dependent on foreign technical assistance.

The Republic of Djibouti, which is very committed to fundamental freedoms, wishes to strongly emphasize that the use of force is the monopoly of a sovereign State.

True to its traditional culture of peace and friendship, Djibouti is also keen to ensure that the National Counter-Terrorism Committee operates within the international counter-terrorism coalition. Indeed, the protection and promotion of peace in the region is an area in which Djibouti has always excelled.

Annex

Summary table of international conventions relating to the fight against terrorism

	Titles of the conventions	*Signature by Djibouti*	*Ratification by Djibouti*	*Entry into force*
1	Convention on Offences and Certain Other Acts, Committed on Board Aircraft, signed at Tokyo on 14/09/63	10/06/92	08/09/92	04/11/63
2	Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16/12/70		24/11/92	14/10/71
3	Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23/09/71		24/11/92	26/01/73
4	Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24/02/88	No	No	06/08/89
5	Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14/12/73	Yes	No	20/02/77
6	International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17/12/79	No	No	03/06/83
7	Convention on the Physical Protection of Nuclear Material, signed at New York and Vienna on 03/03/80	No	No	08/02/87
8	Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10/03/88	No	No	
9	Protocol to the previous Convention on the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10/03/88	Yes	No	06/08/89

	Titles of the conventions	*Signature by Djibouti*	*Ratification by Djibouti*	*Entry into force*
10	Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 01/03/91	Yes	No	21/06/98
11	International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15/12/97	No	No	23/05/01
12	International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9/12/99	15/11/01	No	Not yet
13	Arab Convention on the Suppression of Terrorism, signed at a meeting held at the General Secretariat of the League of Arab States in Cairo on 22/04/98	22/04/98	21/10/01	21/11/01
14	OAU Convention on the Prevention and Combating of Terrorism, adopted at Algiers on 14/07/99	No	No	
15	Vienna Convention on the Law of Treaties of 23 May 1969	No	No	

République de Djibouti
Unité - Égalité - Paix

Ministre des affaires étrangères
et de la coopération internationale
chargé des relations avec le Parlement

Le Ministre

No 785/FX/2001/MAECI
Djibouti, le 24 décembre 2001

Monsieur le Président du Comité du Conseil
de sécurité chargé de la lutte antiterroriste

Monsieur le Président,

Conformément à la résolution 1373 (2001) du Conseil de sécurité dans laquelle les États membres sont invités à produire un rapport en matière de lutte antiterroriste, j'ai l'honneur de vous transmettre les mesures prises par la République de Djibouti.

Le 12 septembre 2001, le Président de la République a condamné vigoureusement et catégoriquement les attentats terroristes et a exprimé sa solidarité avec le Gouvernement et le peuple des États-Unis d'Amérique.

Il a également institué, par décret No 2001-0193/PRE (ci-joint en annexe) du 3 octobre 2001, le Comité national de lutte contre le terrorisme, composé du :

- Ministre de la justice, des affaires pénitentiaires et musulmanes, chargé des droits de l'homme;
- Ministre des affaires étrangères et de la coopération internationale, chargé des relations avec le Parlement;
- Ministre de l'intérieur et de la décentralisation;
- Ministre de l'économie et des finances, chargé de la privatisation;
- Gouverneur de la Banque centrale de Djibouti;
- Chef de la sécurité nationale et Chef de cabinet militaire du Président de la République;
- Chef d'état-major général des armées.

Ce comité a élaboré un rapport contenant les mesures spécifiques dans les domaines suivants :

- Législation pénale;
- Échange d'informations;
- Sécurité des personnes et des biens;
- Adoption de mesures contre le financement du terrorisme.

Le Comité a décidé entre autres, de mettre en place un observatoire de la sécurité nationale chargé d'analyser et de gérer les menaces terroristes, de former un groupe de magistrats et d'officiers de police judiciaire en vue de prévenir et réprimer les actes terroristes.

Enfin, les membres du Comité ont convenu de créer un Bureau des enquêtes financières (BEFI) pour combattre la délinquance financière en lien avec les organisations criminelles.

Consciente de ses atouts géostratégiques exceptionnels, la République de Djibouti est déterminée à apporter son entière contribution à la mobilisation internationale contre le terrorisme.

En harmonie avec ses engagements internationaux, le Secrétariat permanent du Comité vous tiendra régulièrement informé de l'avancement des mesures entreprises en matière de lutte contre le terrorisme.

(*Signé*) Ali Abdi **Farah**

République de Djibouti
Unité - Égalité - Paix

Présidence de la République

Décret No 2001-0193/PRE
portant création d'un Comité national
de lutte contre le terrorisme

Le Président de la République
Chef du Gouvernement

Vu la Constitution du 15 septembre 1992;

Vu la loi No 59/AN/94 du 5 janvier 1995 portant Code pénal;

Vu le décret No 2001-0053/PRE du 4 mars 2001 portant nomination du Premier Ministre;

Vu le décret No 2001-0137/PRE du 4 juillet 2001 portant nomination des membres du Gouvernement;

Vu le décret No 2001/156/PRE du 11 juillet 2001 portant attribution des fonctions des ministères;

Vu la résolution 1373 du 28 septembre 2001 du Conseil de sécurité des Nations Unies.

Décrète

Article 1. Il est créé un Comité national de lutte contre le terrorisme composé de :

M. Ismail Ibrahim Houmed, Ministre de la justice, des affaires pénitentiaires et musulmanes, chargé des droit de l'homme	Président
M. Ali Abdi Farah, Ministre des affaires étrangères et de la coopération internationale, chargé des relations avec le Parlement	Membre
M. Abdoulkader Doualeli Waiss, Ministre de l'intérieur et de la décentralisation	Membre
M. Yacin Elmi Bouh, Ministre de l'économie et des finances, chargé de la privatisation	Membre
M. Djama Haid, Gouverneur de la Banque centrale de Djibouti	Membre
M. Hassan Said Khaireh, Chef de la sécurité nationale et Chef de cabinet militaire du Président de la République	Membre
M. Fathi Ahmed Houssein, Chef d'état-major général des armées	Membre

Article 2. Le Comité national est chargé de mettre en oeuvre les mesures nécessaires à la lutte contre le terrorisme sur le territoire de la République de Djibouti et contre le terrorisme international.

Article 3. Le Comité est tenu de réfléchir sur la conception et la mise en place des mécanismes internes de lutte contre le terrorisme conformément à la résolution 1373 du 28 septembre 2001 du Conseil de sécurité des Nations Unies.

Article 4. Le Comité dispose toute l'autorité nécessaire pour décider et prendre les mesures et actions appropriées pour prévenir et réprimer tous actes terroristes.

Article 5. Le Comité est tenu au respect des engagements internationaux et à l'adhésion des conventions et protocoles internationaux relatifs au terrorisme.

Article 6. Le Comité doit établir un rapport sur la situation et devra informer régulièrement le Président de la République et le Premier Ministre sur l'état d'avancement des travaux, des actions prises et des résultats atteints.

Article 7. Le présent décret sera enregistré et publié au journal officiel de la République de Djibouti.

Djibouti, le 3 octobre 2001

Le Président de la République,
Chef du Gouvernement
(*Signé*) Ismaïl Omar **Guelleh**

United Nations S/2001/1312

Security Council

Distr.: General
31 December 2001
English
Original: French

Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Israel, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-22921 (E) 120202 050302

Annex

[Original: English]

Letter dated 27 December 2001 from the Permanent Representative of Israel to the United Nations addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to attach herewith the report of the Government of Israel submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) Yehuda **Lancry**
Permanent Representative

Enclosure

State of Israel: report to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001*

EXECUTIVE SUMMARY

In response to *Security Council Resolution 1373*, the State of Israel submits its Report regarding the steps that it has taken to combat terror and to comply with the Security Council Resolution.

The State of Israel has been threatened by terrorism since its independence. As a result, it has developed an extensive network of government authorities, a body of domestic legislation, a range of practical policies and an intense commitment to combat terrorism in all its aspects. The 1996 formation of the Bureau for Counter Terrorism within the Office of the Prime Minister, the establishment in December 2001 of the Department for Counter Terrorism in the Ministry of Foreign Affairs, Israel's continued efforts to engage dialogue and cooperation with other countries and the continued effort to improve an extensive body of legislation all emphasize that commitment.

General legislation on the matter of terrorism exists in the *Defence Regulations (State of Emergency)* (1945), the *Prevention of Terrorism Ordinance* (1948) and the *Penal Law* (1977). Beyond these laws, there are specific provisions relevant to the war on terrorism in other legislation, such as the *Firearms Law* (1949) and the *Air Navigation (Security in Civil Aviation) Law* (1977).

The ability to cooperate in with other States, in international efforts to bring terrorists to justice, is founded in the *Extradition Law* (1954).

Israel is acutely aware that the war on terror is dynamic, and that new tools must be consistently developed to combat the ever-increasing sophistication of terrorists and terror organizations, as well as to take account of newly available technologies. The fact that terrorism is increasingly global in scope and in its threats, creates a need to amplify the ability to cooperate internationally in the war on terrorism.

Consequently, Israel acts, together with other States, in cooperating, sharing knowledge, expertise and techniques in fighting terrorism. This continued sharing of information and experiences is vital due to the international nature of this challenge. Central to this effort are the obligations taken on by Israel with its neighbors as part of agreements between the sides. Domestically, Israel continually monitors the state of its legislation and, when the need arises, adopts new legislation intended to meet these challenges. Specific examples from recent years include:

- The *International Legal Assistance Law* (1998), which simplifies international cooperation in the investigation and prosecution of terrorists;
- The *Prohibition on Money Laundering Law* (2000) which criminalized various financial activities; and
- A recent (May 2001) and far-reaching amendment to the *Extradition Law* (1954), which generalized the definition of extraditable offences thus removing the need for specific inclusion of offences in the *Extradition Law* and greatly expands the authority of Israel to cooperate with other States in the areas of international crime and terror.

In light of the events of 11 September 2001 and the actions of the international community in adopting of *Resolution 1373*, Israel is further increasing its counter terrorism activity and reconsidering its stance on its

* The appendices to this document are on file with the Secretariat and are available for consultation.

existing framework for combating international terrorism and its position regarding a range of agreements and treaties. At the time of submission of this Report, new legislation is being considered in a number of spheres. A bill for the *Combating Organized Crime Law* would further criminalize activities of terrorist organizations, as well as streamlining international efforts to combat such activity Legislation regarding procedures for dealing with refugee requests is also being considered.

Israel also places great importance on participation in international instruments designed to combat terrorism. Israel has already signed and ratified a number of international conventions, and many of the remaining conventions have been signed and are in the process of ratification. During the course of the preparation of this Report, all internal formalities for the ratification of a further Convention, the *Convention on Physical Protection of Nuclear Material*, were completed, culminating in the government's decision to ratify earlier this week.

In summary, although Israel already possesses many legal and administrative tools for the war on terrorism, it remains committed to the effort to improve and expand these tools, both in domestic legislation and through international instruments. Israel has been a leader in the counter-terrorism effort and is committed to sharing and working with other states in order to assist the international effort against the scourge of terror.

INTRODUCTION

In the past three months, since the unanimous adoption of *Security Council Resolution 1373*, the State of Israel has continued to suffer the ravages of terror attacks. These attacks have included the shooting of civilians, suicide bombings of public buses and city centers and the launching of missiles at communities. 66 men, women and children have been killed and literally hundreds wounded in the days and weeks after the adoption of this statement affirming the resolve of the international community against terrorism. This state of affairs is not new for the people of Israel. Since the founding of the State of Israel in 1948, its citizens have found themselves having to live their lives, to go to school and to work and to raise families in the shadow of terror.

Israel strongly supports the vital steps mandated by *Resolution 1373*. This statement by the international community places obligations upon all member states of the United Nations. It presents the essence of the common cause against all international terrorists, against all acts of terror and all of those who support these actions. This joint action will emphasize that there can be no differentiation between terrorists or explanations for any such attacks against innocent civilians.

Israel warmly welcomes the initiative of the Security Council to establish the Counter Terrorism Committee. Israel hopes that this Committee will be able to play a key role in helping States develop counter-terrorism capabilities and to encourage States towards fulfilling their obligations in accordance with *Resolution 1373*. It is in this spirit that Israel submits the enclosed documentation regarding its efforts in the fight against terror.

Israel has initiated over recent years unique branches of government to emphasize Israel's practical concerns on the subject of terrorism. It has also reemphasized practical cooperation with other states on the issue of counter terrorism. The events of 11 September 2001 and the actions of the international community in adopting of *Resolution 1373*, have served as an impetus for Israel to further increase its counter terrorism activity and to reconsider its stance on its existing framework for combating international terrorism and its position regarding a range of agreements and treaties. Israel sees this submission as a starting point in Israel's efforts to coordinate its improvement and cooperation in combating terrorism. Israel's recent adoption of domestic legislation against money laundering serves as an example of this commitment.

Israel has been a leader in the counter-terrorism effort and is committed to sharing and working with other states in order to assist the international effort against the scourge of terror. Israel hopes that its efforts and experiences will be of value to other States and at the same time that it will be able to learn from the knowledge and expertise of others in our shared challenge of combating international terrorism.

I. UNSCR 1373 Operative Paragraph 1

a. What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1(b) to (d)?

In the weeks since the unanimous approval of Resolution 1373, Israel has taken a number of steps on the matter of preventing and suppressing the financing of terrorist acts. Some of those steps include:

- *Cabinet Decision 815* (21 October 2001) authorized cooperation with the United States in the area of financing terrorist acts. Specifically, the *Cabinet Decision* called for bilateral assistance in practical actions connected with *Executive Order 13224* (23 September 2001) regarding the freezing of assets of individuals, groups and entities linked to terrorist acts or supporting terrorism. This *Cabinet Decision* instructed Israel's Justice Minister to examine whether current legislation would allow such cooperation. If not, the Justice Minister is mandated to promote any necessary new legislation on this matter.

- A complete examination of Israeli bank accounts to cross-match names of individuals and organizations on lists provided by the United States and by counter-terrorism bodies in Israel.

- Israel responded to a questionnaire presented by the United States regarding the financial status of terrorist organizations in Israel.

- The Government of Israel appointed the first director-general of the Authority for Prevention of Money Laundering.

b. What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?

The relevant provisions of Israeli law are sections 4(d), 4(e), and 4(f) of the *Prevention of Terrorism Ordinance* (1948), section 148 of the *Penal Law* (1977) and the *Defence Regulations (State of Emergency)* (1945).

1. *Prevention of Terrorism Ordinance* (1948)

- Section 4(d) of the *Prevention of Terrorism Ordinance* provides that a person who gives money or moneys worth for the benefit of a terrorist organization is guilty of a crime and is liable to be imprisoned for a term not exceeding three years and/or a fine currently, pursuant to Section 61(3) of the *Penal Law*, up to 49,800 NIS (approximately U.S. $11,580).

- Sections 4(e) and (f) of the *Prevention of Terrorism Ordinance* establish as an offence punishable by three years in prison, the provision of a location or an article to a terrorist organization for its use:
  4. (e) a person who...puts a place at the disposal of anyone in order that that place may serve a terrorist organization or a member of a terrorist organization or its members, regularly or one particular occasion, as a place of action, meeting, propaganda or storage; or
  (f) puts an article at the disposal of anyone in order that article may serve a terrorist organization or a member of a terrorist organization in carrying out an act on behalf of the terrorist organization.

2. *Penal Law* (1977)

- Section 148 of the *Penal Law* establishes as a criminal offence punishable by six months imprisonment, the payment of membership dues to an unlawful organization, as defined in that law.

Under the general provisions of the *Penal Law*, the terms of this legislation apply to a citizen or resident of Israel who commits offences outside Israeli territory, or offences which were only partially committed within the territory of the state. It should be noted that the application of this article is limited to those cases in which the offender has not been tried in another country, and that this section can only be implemented when a number of conditions are satisfied, significantly that the act was also an offence in the country in which it was committed.

3. ***Defence Regulations (State of Emergency)*** **(1945)**

- Regulation 85(1)(8) establishes as an offence, fundraising for an unlawful association.

c. What legislation and procedures exist for freezing accounts and assets at banks and financial institutions?

The following sources of authority for freezing or confiscating the assets of terrorist organizations exist under Israeli law:

1. ***Prevention of Terrorism Ordinance*** **(1948)**

Under Section 5 of the *Prevention of Terrorism Ordinance* any property of a terrorist organization shall be confiscated. Section 5 also provides that the appropriate judicial body to authorize the confiscation of terrorist property is the District Court. Property which is liable to be confiscated may be subject to an attachment order by decision of the Inspector General of the Police. It should be noted that Section 5 provides for an evidentiary presumption that property located on the premises of a terrorist organization is the property of a terrorist organization.

2. ***Defence Regulations (State of Emergency)*** **(1945)**

An alternative basis for the confiscation of property is the *Defence Regulations (State of Emergency)* (1945). Regulation 84(2)(a) provides that, upon the declaration by the Minister of Defence that an organization is an "unlawful association", a person in possession of property, an account, or a deposit of the association must notify the Minister of Finance within 48 hours. The Minister of Finance is authorized, under subsection (b) to confiscate such property.

Regulation 84(2)(d) grants authority to enter into premises in which there is cause to believe that there is such property or documents relating to such property, and to confiscate them. Regulation 74 grants authority to seize such property or documents.

3. ***Criminal Procedure Ordinance (Search and Seizure) [New Version]*** **(1969)**

Pursuant to Section 32 of the *Ordinance*, the police is authorized to seize an item if it has cause to believe that the item was used or about to be used for the commission of an offence, or that it is likely to serve as evidence in a legal proceeding relating to an offence, or that it was given as payment for the commission of an offence or as a means of committing it.

This item (which could include money) can be held by the police and if an indictment is not filed regarding the relevant offence within six months, it must be returned. Alternatively a court order may be obtained pursuant to section 34 of the *Ordinance*, regarding the disposition of the item.

4. *Prohibition of Money Laundering Law* (2000)

Israel's recent legislation on the issue of money laundering provides substantial tools to confiscate the funds of terrorist organizations.

Chapter 6 of the *Legal Assistance Between States Law* (1998), enables an Order of Confiscation issued by another State concerning property in Israel to be enforceable (after application for a court order in Israel) for offences of money laundering. Therefore, the actions noted below – freeze, criminal and civil confiscation of assets in Israel – may be carried out at the request of a foreign State.

i. Freezing of the situation before the beginning of legal proceedings

Section 23 of the *Prohibition of Money Laundering Law* applies the provisions of Sections 33(c) – 33(j) of the *Dangerous Drugs Ordinance [New Version]* (1973), to the confiscation of property according to this Law. Therefore, according to the provisions of section 33(f)(b), the District Courts are empowered to issue a provisional order even before an indictment. This order may be issued *ex parte*, if there is the danger of immediate disappearance of the property.

After indictment, or after the submission of a request for civil confiscation, the Court may issue a provisional order to ensure the confiscation after a potential conviction or decision to confiscate.

ii. Confiscation in a criminal proceeding

Section 21 of the *Prohibition of Money Laundering Law* establishes a mechanism of confiscation by the Court in the case where a person is convicted of an offence of money laundering or activity with forbidden property.

The Law permits confiscation of property equal in value to that of the property with which an offence was committed or which served in the commission of an offence, or which was obtained in payment for commission of an offence.

Property of a third party may also be confiscated, if the convicted defendant financed its acquisition or transferred it without payment (the affected party is given the right to present relevant claims). Therefore, an individual who made a donation to a terrorist organization and was convicted thereof according to section 4 of the Law would be required to pay a sum equal to the amount of the donation.

According to Section 21, in the case of conviction in accordance with Sections 3-4, the property will be, as a rule, confiscated, and the decision not to confiscate such property may be made only in extraordinary circumstances which must be noted in the Court's decision.

iii. Confiscation of property in a civil proceeding

Section 22 of the *Prohibition of Money Laundering Law* allows confiscation of property in a civil proceeding, in those cases where an offence was committed under Section 3-4 but where for some reason indictment is impossible (for example, the accused is not in Israel or cannot be found, or the property was located after a conviction). The District Court is empowered to order the civil confiscation of such property.

Property held by a third party may also be confiscated, but only in cases where the possessor knew or agreed that the property be used for the commission of an offence, or where his right in the property was acquired without compensation or not innocently. In this case as well, the third party is entitled to present a relevant claim.

iv. Seizure of funds as a result of non-reporting of entry or exit

Section 9 of the *Prohibition of Money Laundering Law* requires that the transfer of sums greater than 80,000 NIS (approximately U.S. $18,600) in or out of Israel be reported. Section 10 establishes an offence of non-reporting. Section 11 permits a police or customs officer to seize funds above this sum that were not reported as required. If the suspect is not indicted under this section within 10 days, the funds must be returned to the individual from whom they were seized.

Where the suspect is indicted for non-reporting, the provisions of the *Criminal Procedure Ordinance (Search and Arrest) [New Version]* (1969), permit the possibility of extending the period of seizure by Court Order, and empowers the Court to determine the manner of disposal of the funds at the end of proceedings.

d. What measures exist to prohibit the activities listed in this sub-paragraph?

In addition to the legislation outlined in paragraph (c) above, the holding of financial assets associated with terrorist organizations is prohibited by the provisions of the *Prohibition on Money Laundering Law* (2000). Offences in this regard include those relating to funds resulting from or involved in the commission of certain offences, including offences related to terrorism.

In particular, the law:

- Requires providers of financial services (banks, portfolio managers, stock exchange member, etc.) to report suspicious transfers of funds, and establishes sanctions to enforce these requirements.

- Requires reporting on the movement of cash, traveler's checks and bank drafts into and out of the territory of the State of Israel.

- Allows confiscation of funds, both ancillary to criminal proceedings or in separate civil proceedings in those cases where a criminal proceeding is not possible.

- Establishes a statutory authority to operate a data bank of that information relevant to the execution of the Law. The Law establishes that this authority will view as an offence offences committed in another State provided that it is an offence also under that State's laws. As a result, even if the original offence, which caused the funds to be seen as "forbidden funds" in accordance with the Law, was committed outside Israel, the Law would apply.

Since possession of forbidden property would be considered "activity in forbidden property" under the Law, the act of possession of funds received in donation to a terror organization is an offence under sections 3-4 of the Law. For example, donations to a terrorist organization are an offence, *inter alia* under Section 4(d) of the *Prevention of Terrorism Ordinance* (1948), and therefore these funds are "forbidden property" under section 3 of the Law. Section 1 determines that this act of possession may be punishable by up to seven years imprisonment when the possessor knew of the nature of the funds.

II. UNSCR 1373 Operative Paragraph 2

a. What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

1. Recruitment of new members

The recruitment of members to a terrorist organization is an offence under Regulation 85(1)(i) of the *Defence Regulations (State of Emergency)* (1945), which establishes as an offence, punishable by 10 years imprisonment:

> 85. (1) any person who
>
> ...by writing, words, signs, or other acts or representation, directly or indirectly, whether by inference, suggestion, implication, or otherwise, acts on behalf of, or as a representative of an unlawful organization...

A significant method for the recruiting of new members to terrorist organizations is via incitement and propaganda. Israeli law establishes a number of offences in this regard:

- Section 2 of the *Prevention of Terrorism Ordinance* (1948) provides that a person delivering a propaganda speech at a public meeting or over the airwaves on behalf of a terrorist organization shall be liable for a felony. Conviction herein carries a prison term not exceeding twenty years.

- Section 4(a) and (b) of the *Prevention of Terrorism Ordinance* (1948) provides that a person who publishes, in writing or orally, words of praise, sympathy, or encouragement for acts of violence calculated to cause death of injury to a person or threats of such acts of violence or publishes words of praise or sympathy for or an appeal for aid or support for a terrorist organizatio would be liable on conviction to imprisonment for a term not exceeding three years, to a fine currently standing at 49,800 NIS (approximately U.S. $11,580) or to both such penalties.

- The holding of propaganda material for the benefit of a terrorist organization is similarly an offence punishable by three years in prison or a fine currently standing at 49,800 NIS (approximately U.S. $11,580).

- Section 4(c) of the *Prevention of Terrorism Ordinance* provides that a person who possesses propaganda material for the benefit of a terrorist organization shall be guilty of an offence.

2. Prevention of the supply of weapons

The relevant legislation regarding the supply of weapons is the *Firearms Law* (1949). A permit is required in order to manufacture, import or export firearms. Similarly, a permit is required to bear arms. Failure to comply with these provisions, which are intended, *inter alia*, to prevent terrorist organizations from acquiring weapons, is a criminal offence. The *Explosive Material Law*, 1954 contains similar regulations regarding explosive materials.

Regulation 59 of the *Defence Regulations (State of Emergency)* (1945) also establishes certain restrictions in this regard. Section 144 of the *Penal Law* also establishes offences in relation to unlawful weapons.

In accordance with *Government Decisions 411* (1974) and *190b* (1999) the Border Team of the Bomb Unit of the Israel Police is responsible for the prevention of the entry of weapons and ammunition throughout the border points into Israel. This unit provides professional guidance to various public and private authorities. The Israel Police is responsible for the prevention of illegal entry of weapons via border crossings by use of land, sea and the post.

b. What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?

Throughout the 53 years since its founding, the State of Israel has been forced by circumstances to take an active role in terms of practical measures to prevent the commission of terrorist acts and to develop a range of internal and shared early warning mechanisms. It has also regularly cooperated, both in the region and with other similarly interested states to exchange information regarding terrorist activity.

The following are some examples of such proactive actions that Israel has taken:

- In 1996, Israel formed a Bureau for Counter Terrorism within the National Security Council of the Office of the Prime Minister. This branch coordinates information and makes policy proposals in the area of counter terrorism. It is responsible for proposing and carrying out international cooperation including the identification of areas of interest and concern to Israel and to other countries.

- On 4 October 2001, the Minister of Defence declared el-Qaida an unlawful association. For further details about the subject of "unlawful associations" see Section II (e) herein.

- In December 2001 Israel's Ministry of Foreign Affairs created the Division for Strategic Affairs. This Division includes the Department for Counter Terrorism which was specifically formed to respond to the new concerns in the areas of terrorism and the threats of non-conventional weapons. The division will interact on these subjects domestically and in global for a and will avail itself of the diplomatic resources of the Ministry of Foreign Affairs to meet the challenges following the attacks of 11 September 2001.

- In April 2000, Israeli authorities arrested a Palestinian man who is alleged to be a member of the el-Qaida network. This individual attempted to cross into Israel via the Rafiah crossing point along the Egyptian border in order to establish an el-Qaida cell in Israel. An indictment has been served in this case.

- Israel conducts regular dialogues on the issue of counter terrorism and the exchange of information with a large range of countries. In recent months such dialogues have taken place with the United States, India and the European Union.

- Israel has recommended Mr. Benjamin Rubin to the Counter Terrorism Committee as an expert in the field of counter terrorism legislation. It is also examining the possibility of making additional recommendations of Israeli experts to offer assistance to the work of the Committee.

c. What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph?

1. Domestic Legislation

During the last three years, Israel has undertaken a comprehensive revision of its legislation regarding extradition and international legal assistance. These laws augment Israel's ability to provide assistance to other states in the investigation and prosecution of serious crimes. These legislative changes include a major revision of the *Extradition Law* (1954) which was approved by the Knesset (Israel's Parliament) in May, 2001. These legislative enactments and amendments will greatly contribute to Israel's ability to contribute to the international cooperative effort to combat terrorism.

2001 Amendment of the *Extradition Law*

Israel's recent amendment of its Extradition Law (hereinafter: "the 2001 Amendment"), allows authorities wide latitude to prevent the use of Israel as a safe haven to criminals, including terrorists. Some relevant aspects of the 2001 Amendment include:

- The definition of "extraditable offences" has now been extended to render every offence punishable by "one or more years imprisonment" an extraditable offence. Previously only offences punishable by more than three years imprisonment were considered extraditable unless they were included on a specific list of extraditable offences. The new definition allows for a greater flexibility in ensuring that offences will be extraditable. Another amendment provides that where an extraditable offence exists, extradition will also be permitted regarding connected offences even if the additional offences would not have been extraditable in themselves. This provides an important function in ensuring that no fugitive fleeing to Israel could benefit through a reduction of the offences for which prosecution is permissible following extradition.

- The criteria for the extradition of Israeli citizens for offences committed abroad have been broadened. Under the 2001 Amendment, an Israeli citizen may be extradited to stand trial in the requesting state for offences committed there. Where the requested suspect possessed both Israeli citizenship and domicile at the time of the offence, the extradition will be conditioned upon an guarantee that, if convicted, the Israeli national would be permitted to serve the sentence in Israel. Such guarantees are provided in the framework of treaties such as the *European Treaty on the Transfer of Sentenced Persons*, bilateral agreements or via ad-hoc arrangements to which Israel is a Party. The amendment is designed to ensure that Israel will not be accessible as a safe haven for international criminals, including those whose offences may have contributed to international terrorist activities.

- Israeli law has always required that extradition may only take place pursuant to an extradition treaty or agreement between Israel and the requesting state. The 2001 Amendment is designed to ensure that this requirement does not limit flexibility Israel may require in order to permit extradition in cases of serious crimes including terrorist activities. The 2001 Amendment defines an "extradition agreement" to include not only bilateral and multilateral extradition treaties but also "an agreement or treaty which is not particular to the extradition of criminals, but which includes provisions in this regard". In this regard, Israel has signed a number of treaties specifically designed to deter and punish terrorists. These treaties include extradition provisions. Thus, Israel is now able to extradite (and request the extradition of) terrorists from states even if it could not extradite to those states for non-terrorism related crimes.

- Extradition may be effected to designated international tribunals. Currently, designated tribunals include the tribunals set up under Security Council resolutions related to Rwanda and the Former Yugoslavia. Future tribunals to be established to deal with terrorist crimes could be added to the list of designated international tribunals.

- While extradition may be denied where extradition is sought for "political offences", the 2001 Amendment specifically excludes from the definition of "political offences" a wide variety of offences of the sort that commonly typify terrorist activity including, "killing, or the causing of grave bodily injury", "the taking of hostages", "preparation or possession of weapons, explosives or destructive materials" and "the use of [such weapons or materials] to endanger life or cause serious damage to property". Conspiracy to commit such offences is also not considered a political offence under Israeli law. The law now emphasizes that no political agenda or ideology may provide a shield to an individual who commits heinous crimes of this nature.

- Of specific significance in the area of terrorism, the 2001 Amendment also excludes from the political offence protections, any offence for which Israel and the requesting state are "obligated to extradite under

a multilateral treaty." As the war against terrorism increasingly becomes the subject of multilateral conventions, this provision will assure that such international crimes will not constitute political offences under Israeli law.

- The 2001 Amendment generally streamlines and modernizes the procedures and proceedings relating to extradition to make it an effective tool against transnational crime.

In conclusion, the 2001 Amendment provides Israel with an effective and flexible mechanism to respond to requests for extradition in the case of international crime while still safeguarding the legitimate procedural and substantive rights of its citizens and of other persons whose extradition has been sought. Many of the provisions of the 2001 Amendment provide a basis for extended cooperation with respect to a full range of crimes and not exclusively to terrorist crimes.

Prohibition on Money Laundering Law (2000)

An additional new piece of legislation recently approved by Israel's Knesset is the *Prohibition on Money Laundering Law* (2000). Prior to the enactment of this law, money launderers were protected to a great extent from extradition due to the lack of "double criminality", as Israel could not extradite suspects for actions that would not have constituted crimes in Israel. The *Prohibition on Money Laundering Law* assures that this lacuna has been closed.

Extraterritorial Jurisdiction

As noted above, following the 2001 Amendment to the *Extradition Law*, Israel has the legal authority to extradite all persons, irrespective of their citizenship, to stand trial. It also has the authority to try persons in Israel for serious crimes committed outside of Israel's borders. Thus, even when extradition may not be possible, Israel could apply the international principle of *aut dedire aut punire* to try and punish terrorist offenders in its own courts. Israel could indict and punish the commission of terrorist crimes outside of Israel in the following situations:

(a) Where the accused was an Israeli citizen or resident when he committed the crime (Section 15 of the *Penal Law* (1977));

(b) Where Israel is a party to an international agreement to punish offenders for such crimes (Section 16 of the *Penal Law*). Israel is a party to a number of anti-terrorism treaties. Section 16 of the *Penal Law* allows Israel to indict and punish persons who have committed offences covered in these treaties without regard to where the offence was committed or the nationality or residency of the offender;

(c) Under certain other conditions, where the accused is now an Israeli resident, is physically in Israel and Israel has undertaken, pursuant to a treaty and reciprocity, to apply its laws to a person committing an offence abroad. (Section 17 of the *Penal Law*).

2. International Treaties and Conventions

Israel has sought to increase its ability to offer and receive effective cooperation in the area of extradition in terrorist cases both through its accession to treaties and conventions specifically dealing with terrorism and through efforts to extend the scope of its present general extradition treaties and agreements. Extending the scope of these treaties and agreements would be useful in rendering them more effective instruments for combating both international crime and terrorist activity.

Existing Extradition Treaties

Israel has been a Party to the *European Convention on Extradition* since 1967. While it has signed the *Terrorist Bombings* and *Financing of Terrorism* Treaties, it has not yet ratified these treaties. Nevertheless, under its existing extradition treaties, Israel has the ability to extradite for most terrorist offences. Moreover, Israel is currently endeavoring to extend the scope of its bilateral extradition agreements so as to greatly ease the procedural prerequisites for extradition. Specifically, where an extradition treaty provides for a schedule of specific listed offences for which extradition would be allowed, Israel is seeking to replace such list with a broad provision allowing extradition for all offences punishable by at least one year imprisonment. The older "list of offences" treaties pose particular difficulties regarding extradition for many terrorism related offences because the lists often do not specifically include offences under anti-terrorism legislation. This is the case, for example, with Israel's present Extradition Treaty with the United States.

d. What legislation or procedures exist to prevent terrorists from acting from your territory against other states or citizens?

The issue is covered by the following provisions of the *Penal Law*, 1977

- Section 145 defines an "unlawful association" as an association which incites to subversion or to bring down, by force or violence, the lawful government of Israel or of another country".

- Section 146 establishes as an offence punishable by three years imprisonment, incitement or encouragement to perform any of the above acts.

- Section 147 establishes as an offence punishable by one year imprisonment, membership in a prohibited association.

- Section 165 establishes as an offence punishable by 10 years imprisonment the attempt to destroy the political order of another state. Incitement to hostilities against a friendly state is an offence punishable by three years imprisonment (Section 166).

- Section 499 provides that conspiracy to commit a felony or misdemeanor is an offence. For our purposes, this section would apply even if the conspiracy is to commit the offence outside the territory of Israel.

e. What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts?

In addition to legislative provisions already outlined, terrorist acts are defined as criminal offences in the following laws:

***Prevention of Terrorism Ordinance* (1948)**

- Section 2 of the *Prevention of Terrorism Ordinance*, entitled "Activity in a terrorist organization" provides that a person performing a function in the management or instruction of a terrorist organization or participating in the deliberations or the decision making process of a terrorist organization or acting as a member of a tribunal of a terrorist organization shall be liable on conviction to imprisonment for a maximum twenty year sentence.

- According to Section 3 of the *Ordinance*, membership in a terrorist organization, even if not accompanied by active participation, is an offence punishable by five years imprisonment. Membership in a terrorist organization can be proved by means of two evidentiary presumptions established in section

9 of the *Ordinance*. First, if the person was a member of a terrorist organization at any time, this creates a presumption that the person is currently a member of that terrorist organization. Second, a person in the place where a terrorist organization is meeting, is presumed to be a member of that organization, unless the opposite is proven.

- A public act of identification with or support for a terrorist organization, is an offence punishable by three years imprisonment, according to section 4(g) of the *Ordinance*.

- Sections 7, 8 and 11 of the *Ordinance* establish a number of evidentiary presumptions indicating that an organization is a terrorist organization:

  (a) If acts of violence were committed on behalf of that organization.
  (b) If the organization or someone on its behalf took responsibility for the commission of such acts of violence.
  (c) If the Government declared by notice in the Official Gazette that the organization is a terrorist organization.
  (d) If a court judgement determined that a particular group of individuals are terrorists.

An additional evidentiary presumption, relevant both with regard cases brought against members of terrorist organization, and in relation to confiscation of the property of a terrorist organization, is established in Section 10 of the Ordinance, according to which any matter which appears from its contents to have been published by a terrorist organization or on its behalf, can be assumed to be evidence of the facts presented in it.

***Defence Regulations (State of Emergency)* (1945)**

Regulation 85 establishes a number of offences relating to unlawful associations, including membership, holding an office, performing services, attending meetings, providing a place for meeting to be held, possessing propaganda or acting as a representative of such an organization.

***Penal Law* (1977)**

Section 145 of the *Penal Law* defines an "unlawful association" and establishes offences of advocating unlawful association (Section 146), membership in an unlawful association (Section 147), contributions to an unlawful association (Section 148), and publication of writings of an unlawful association (Section 149).

Additionally, the standard provisions of the *Penal Law* also apply to acts of terrorism. Among the most relevant in this regard include causing death (Article 1 of chapter 10); harm with aggravating intent (Section 329); and unlawful military exercises (Section 143).

Aviation Laws

Section 14 of the *Air Navigation (Security in Civil Aviation) Law* (1977) establishes as an offence punishable by three years imprisonment, the carrying of arms or explosives in an aircraft or airport. This provision applies to all aircraft in Israel and to Israeli aircraft abroad.

Section 17 of the *Aviation (Offences and Jurisdiction) Law* (1971), deals with the offence of hijacking an aircraft. The Section provides that seizing of an aircraft by force, violence, fraud or threat to use force or violence, or unlawfully taking control of an aircraft, possessing an aircraft or participates in the operation of an aircraft, in his control or possession, knowing that the aircraft was seized or had control taken over it or that it is being used to operate the controls of another aircraft which was seized or had control taken over it is an offence punishable by life imprisonment.

Proposed bill for fighting criminal organizations

Israel's Ministry of Justice is currently in the advanced stages of developing a bill dealing with criminal organizations. This proposed legislation would define criminal organizations, and provides that it makes no difference whether its meetings take place in Israel or in another country, as long as they are also offences according the laws of that country. Thus, the sanctions of the law might be imposed against a terrorist organization whose aim is to commit terrorist acts outside Israel. The bill also defines members of a criminal organization.

According to the proposed bill, a terrorist organization would be considered a criminal organization, and thus criminalizes that status as a "person active in a criminal organization". Such activity would be an offence punishable by 10 years imprisonment. Additionally, the commission of an offence within the framework of a criminal organization would be considered to be an aggravating circumstance, for which the punishment to which the offender is liable is doubled.

The proposed bill also includes sanctions such as confiscation in criminal proceedings.

Offences of attempt and assistance

Finally, all offences referred to above are also, of course, subject to the additional application of the offences of attempt and assistance.

Attempt: Under section 34(d) of the *Penal Law*, the punishment for the attempt to commit an offence is equal to the punishment for the commission of the offence itself.

Assistance: Under section 32 of the *Penal Law*, the punishment for assisting in the commission of an offence is one half of the punishment for the main offence.

f. What procedures and mechanisms are in place to assist other states?

In 1998, Israel's Knesset introduced a comprehensive and detailed new law regulating legal assistance to other states. The *International Legal Assistance Law* (1998) (hereinafter: "the *Legal Assistance Law*") allows Israel to offer full and effective cooperation to authorities in foreign states investigating or prosecuting crimes while still protecting rights of individuals. The *Legal Assistance Law* specifically relates to many forms of legal assistance, including taking testimony, search and seizure operations and authentication of documents. The Law essentially permits all actions relating to the investigation or prosecution of offences. The basic principle of the statute is contained in Section 8 of the *Legal Assistance Law*. This Section provides that any action requested by a foreign state may be performed to the same extent that such act could have been performed had the crime involved occurred in Israel and shall be performed in the manner requested if the request does not violate Israeli law. This allows for a full range of legal assistance similar to that which is available in a domestic criminal matter.

Among the forms of assistance recognized under the *Legal Assistance Law* is assistance in the enforcement of foreign forfeiture orders. Such forfeiture is allowable for designated categories of offences. Although the *Legal Assistance Law* originally only applied forfeiture to drug crimes, forfeiture for money laundering was added to the list of designated offences in 2000. Because terrorist crimes are included among the offences included within the *Prohibition on Money Laundering Law*, this renders Israel able to assist in the forfeiture of funds connected with money laundering connected to terrorism. Moreover, in light of the international anti-terrorism campaign following the tragic events of 11 September 2001, Israel intends to specifically add terrorist crimes to the list of designated offences with respect to which Israel may enforce foreign forfeiture orders.

Unlike extradition, legal assistance does not require specific bilateral or multilateral treaty. Thus, Israel can and does grant assistance to countries with which it does not share a treaty.

The authority which receives requests on behalf of Israel is the Office of Court Administration of the Ministry of Justice. The department that issues such requests on Israel's behalf is the Department of International Affairs of the Ministry of Justice. This Department may also be consulted on questions arising from Israel's execution of foreign requests.

Israel's current legislative and regulatory framework allow it to provide full and comprehensive legal assistance to combat international crime, including, in particular, the scourge of international terrorism.

Legal assistance, as effected within the framework of Israel's treaty arrangements, is detailed in Operative paragraph 3, sub-paragraph (3) below.

g. How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc.?

Israel's experience and policies in the area of border control and concern in the area of movement of terrorism have been extensive over the years due to an acute awareness of the security threats which exist in this area. Nevertheless, the events of 11 September 2001 have caused Israeli authorities to increase their vigilance and consider new solutions in these matters. Some recent actions that have been taken include:

- Israel has introduced a new visa which includes additional protections against forgery and misuse.
- Identification kits have been distributed to Israeli Authorities at border points, Embassies and Consulates to promote awareness as to proper documentation procedures and methods of identification. The kits also increase the capability to identified falsified travel documents.
- Israel is in the process of developing a new passport in consultation with other states. This new passport will offer additional protections against forgery and misuse.
- Israel is examining advanced biometric identification technologies in order to continue to improve its capabilities regarding issuance, protection and identification of travel documentation.

III. UNSCR 1373 Operative Paragraph 3

a. What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?

Israel is active in international fora dealing on an operational level with the threats of terrorism and supports international conventions combatting terrorism as well as international efforts to publish lists of organizations supporting terrorism.

On a bilateral level, Israel cooperates with a range of countries which possess the interest, expertise and capability to combat terrorism. In recent months, formal dialogues have taken place with officials from the United States, India and the European Union. Israel has also sponsored and coordinated an anti-terrorism course for officials from the Philippines.

Israel shares the view as to the importance of taking such actions regardless of the identity of perpetrators or their motives. Areas of cooperation include identification of threats, taking preventative measures and coordination of legal activities and legislation related to the war on terrorism.

b. What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph?

The Israel Police is involved in exchanges of police information on a regular basis.

The Israel Police's Crime Scene Laboratory regularly cooperates, on an *ad hoc* basis, with international partners. Some areas of cooperation include characterization and analysis of terror crime scenes, sharing scientific and operational experience, personnel development and periodic dialogues. Some main areas of activity for the CSL include the discovery and identification of explosives (before and especially after explosions), examination of documents and identification (including at border crossings), development of field kits, processing fingerprints and ballistic examinations.

The Israel Police's Explosives Department cooperates internationally in the fields of post-blast investigation, exchange of technical reports concerning terror attacks, instruction in anti-explosive techniques, participates in international conferences on the subject, and regularly responds to specific inquiries.

Israel is a member of Interpol and cooperates closely with the 178 members of the organization. For example, Israel was called upon to investigate certain individuals in order to clarify whether or not the crash of a Russian aircraft during October 2001 was a result of terrorism activity.

c. What steps have been taken to cooperate in the areas indicated in this sub-paragraph?

Cooperation in the fight against terrorism has been a crucial element in Israel's bilateral agreements with its neighbors.

Israel-Egypt *Treaty of Peace*, 1979

Article III (2) requires each party to ensure that acts of hostility or violence do not originate from its territory and to ensure that perpetrators of such acts are brought to justice. Annex I, Article VII provides for the establishment of a liaison system between the parties as well as a direct telephone link in order to deal with any security issues which arise.

Israel-Jordan *Treaty of Peace*, 1994

Article 4 of the *Treaty* contains extensive undertakings by the two sides in the field of security. In the sphere of combating terrorism, Article 4 (5) requires both parties take necessary and effective measures and to cooperate in combating terrorism of all kinds. In particular, the parties undertake to prevent the entry, presence and operation in their territory of any terrorist group or organization and to cooperate in preventing and combating cross-boundary infiltrations.

Article 4 also establishes a liaison mechanism for the purposes of security cooperation.

This mechanism was most recently used in the past week, when, following a terrorist infiltration across the Israel-Jordan border, Israeli security personnel were permitted entry into Jordanian territory to combat the terrorist activity.

Israeli-Palestinian Agreements 1993-2000

The need to combat terrorism has been a fundamental and recurrent theme in the Israeli-Palestinian agreements. These agreements set out both mutual obligations of both sides in the fight against terrorism and specific undertakings of the Palestinian side to prevent terrorist acts and incitement. Among the key obligations in this regard are the following:

Exchange of Letters between Chairman Arafat and Prime Minister Yitzhak Rabin, September 1993:

The PLO renounces the use of terrorism and other acts of violence and will assume responsibility over all PLO elements and personnel in order to assure their compliance, prevent violations and discipline violators.

Interim Agreement on the West Bank and the Gaza Strip, September 1995:

Article II (2) provides that "both sides will ... act to ensure the immediate, efficient and effective handling of any incident involving a threat or act of terrorism, violence or incitement, whether committed by Palestinians or Israelis. To this end, they will cooperate in the exchange of information and coordinate policies and activities".

The article goes on to detail specific measures to be taken by both sides, including the prevention of incitement, and the apprehension and prosecution of perpetrators of terrorism.

Article III establishes an extensive mechanism for join security coordination and cooperation.

Annex I, Articles II and IV sets out specific obligations of the Palestinian police in the field of maintaining security, including combating terrorism and violence, confiscating illegal weapons and preventing incitement to violence and terrorism.

Annex IV, Article II(7) contains detailed provisions regarding the transfer of terrorist suspects between the two sides.

Note for the Record Attached to the Hebron Protocol, 1997:

The *Note for the Record* set out a list of specific Palestinian responsibilities including: fighting terrorism and preventing violence, strengthening security cooperation, preventing incitement and hostile propaganda, combat systematically and effectively terrorist organizations and infrastructure, apprehension and prosecution of terrorists, compliance with requests for the transfer of suspects and defendants, and confiscation of illegal firearms.

Wye River Memorandum, October 1998:

Paragraph II states the understanding of the two sides that "it is in their vital interests to combat terrorism and fight violence", that "there can be no pause in the work against terrorists and their structure", and that this fight "must be cooperative in that no effort can be fully effective without Israeli-Palestinian cooperation and the continuous exchange of information, concepts and actions."

The *Wye Memorandum* goes on to detail specific actions to be taken by the Palestinian side, including:

- Outlawing and combating terrorist organizations
- Making known its policy of zero tolerance for terror an violence against both sides
- Establishing and vigorously and continuously implementing a systematic program for confiscating and handling illegal weapons and ammunition
- Preventing incitement and acting systematically against all expressions or threats of violence or terror

Sharm el-Sheikh Memorandum, 1999:

Paragraph 8(a) reiterates the commitment of both sides to cooperate in the exchange of information and to coordinate policies and activities to combat terrorist activities.

Paragraph 8(b) sets out a renewed undertaking by the Palestinian side to implement its security obligations, including the collection of illegal weapons and apprehension of terrorist suspects.

In conclusion to this Section, Israel is a Party to bilateral and multilateral treaties with a large number of countries. Requests under such treaties which relate to terrorist crimes are given special attention and priority.

d. What are your government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?

As will be detailed below, Israel is a Party to a significant number of conventions and protocols and has signed others. Regarding those treaties that Israel has not yet ratified, the Government is examining the possibility of such action and each document is being dealt with by relevant agencies examining the ramifications of these documents of Israeli domestic legislation. The events of 11 September 2001 and the approval of Resolution 1373 have led to a expiditing of this process.

Status of United Nations Treaties

1. United Nations Conventions deposited with the Secretary General of the United Nations

   i. *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents, 1973*
   Israel has been a Party to the Convention since July 31, 1980.

   ii. *International Convention Against the Taking of Hostages, 1979*
   Israel signed the Convention of 19 November 1980, while attaching the following declaration upon signature:

   > "1. It is the understanding of Israel that the Convention implements the principle that hostage taking is prohibited in all circumstances and that any person committing such an act shall be either prosecuted or extradited pursuant to Article 8 of this Convention or the relevant provisions of the *Geneva Conventions* of 1949 or their additional protocols, without any exception whatsoever.
   >
   > 2. The Government of Israel declares it reserves the right, when depositing the instrument of ratification, to make reservations and additional declaration and understandings."

   iii. *International Convention for the Suppression of Terrorist Bombings, 1997*
   Israel signed the Convention on 29 January 1999. It has not yet ratified it.

   iv. *International Convention for the Suppression of the Financing of Terrorism*, 1999
   Israel signed the Convention on July 11, 2000, but has not yet ratified it.

2. Conventions deposited with other depositaries

   i. *Convention on Offences and Certain Other Acts Committed on Board Aircraft*, 1963
   Israel has been Party to the Convention since 14 September 1969.

   ii. *Convention for the Suppression of Unlawful Seizure of Aircraft*, 1970
   Israel has been Party to the Convention since 16 August 1971.

   iii. *Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, 1971*
   Israel has been Party to the Convention since 30 June 1972.

iv. *Convention on the Physical Protection of Nuclear Material*, 1980
Israel has just ratified this Convention.

v. *Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Aviation, supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation of 1971*, 1988
Israel has been Party to the Protocol since 2 May 1993.

vi. *Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation*, 1988
Israel signed the Convention on 10 March 1988 but has not ratified it.

vii. *Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf*, 1988
Israel signed the Protocol on 10 March 1988 but has not ratified it.

viii. *Convention on the Marking of Plastic Explosives for the Purpose of Detection*, 1991
Israel signed the Convention on 1 March 1991. It has yet to ratify it.

e. Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph.

Israel has fully implemented the Security Council resolutions 1269 and 1368. This implementation is reflected, *inter alia*, in its report to the Sanctions Committee as well as in its response to the questionnaire of the United States concerning cooperation in implementation of *Executive Order* 13224.

f. What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.

g. What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for extradition of alleged terrorists. Please supply examples of any relevant cases.

The issue of asylum seekers has not been explicitly dealt with in Israeli law. The issue is subject to the discretion of the Minister of the Interior. However, Israel sees itself as bound to act in accordance with the *Geneva Convention on the Status of Refugees* of 1951, and with the *Protocol on the Status of Refugees* of 1967. Accordingly, a set of regulations has been prepared, in coordination with the UN High Commissioner on Refugees. The regulations are based on two fundamental principles: the advancement of human rights, and the protection of refugee status from being abused, including by those involved in terrorist activity. Israel is currently considering the feasibility of promoting legislation on this matter.

The regulations establish procedures for initial investigations and the forming and activity of an advisory committee. Specific procedures for application, appeals and receipt of refugee status are detailed in the regulations. Applications are dealt with on an individual case-by-case basis to prevent potential misuse of the procedure by those involved in illegal activity including terrorism. As part of the investigative process which follow such requests, background checks regarding the individual and the basis of the request are examined. Information regarding involvement in terrorist activities would certainly be grounds for denying such a request.
The State of Israel reserves the right, not to absorb into Israel, or grant a permit to enable the stay in Israel, of subjects of enemy or hostile states. The issue of the release of such persons on bail will be examined on a case-by-case basis, in accordance with the prevailing circumstances, and security considerations.

IV. UNSCR 1373 Operative Paragraph 4

Israel has consistently supported international efforts and advocated regional cooperation to prevent the flow of non-conventional weapons, material, technology and know-how – as well as the illicit trafficking of small arms – and attaches the utmost importance to these efforts both against terrorists and states which support terrorist activity.

Israel entirely supports the observation and concern of Operative Paragraph 4 of Security Council Resolution 1373 with respect to the "close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking." The structures and operations of international crimes often provide support for the activities of terrorists. Israel is confident that effective legislative mechanisms regarding extradition for international cooperation against transnational crime will lead to making the world a less comfortable environment for the purveyors of international terror.

These coordinated efforts should be directed at the illegal movement of conventional arms and non-conventional material to criminal and especially to terrorist elements and the activities of sovereign states. These efforts should challenge states which might violate internationally binding agreements in the sphere of non-conventional weapons, fail to take into account the possibility of the dual-use of such material, and those activities which support terrorists. Such states serve as "role models" for terrorists seeking to acquire and use weapons of mass destruction.

The best way to combat the flow of non-conventional material to terrorists is through strong national commitment and determination, supplemented by regional coordination and cooperative international efforts. Israel's legislation and regulations on arms sales reflect this policy, and export controls are strictly implemented which encompass negotiations, production, licensing, marking and registration. Israel is currently in the process of consolidating legislation governing the export of bio-chemical and nuclear materials.

In this context, Israel is pleased to inform the United Nations that it finalizing its ratification of the *Convention on the Physical Protection of Nuclear Material*. Israel views this process as an integral part of its wider efforts to block attempts by sovereign states and terrorists to threaten the international community with threats of use, distribution or sale of weapons of mass destruction.

United Nations S/2001/1313

Security Council

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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Bosnia and Herzegovina, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-20708 (E) 240102 050302

Annex

[Original: English]

Letter dated 27 December 2001 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to transmit a report by the Ministry of Foreign Affairs of Bosnia and Herzegovina concerning the steps undertaken by the authorities of Bosnia and Herzegovina on combating terrorism (see enclosure).

(*Signed*) Mirza **Kusljugic**
Ambassador
Permanent Representative of Bosnia and Herzegovina
to the United Nations

Enclosure

Report of Bosnia and Herzegovina to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001

Following the September 11th terrorist attacks, UN Security Council has on September 28th, 2001, unanimously adopted resolution 1373 under the Chapter VII of the United Nations Charter. This resolution has established legally binding obligations on all the United Nations Member States, it also defined the common parameters of the international efforts in dealing with terrorists, their organizations and those who support them.

With reference to the Security Council Resolution 1373 (2001), operative paragraph 6, which calls upon Member States to report to the Committee of the Security Council on the steps taken to implement the Resolution, Bosnia and Herzegovina submits the following Report, and enlists the following steps taken:

Steps taken by Bosnia and Herzegovina:

- On September 20, the Council of Ministers of BiH designated a working group of four Deputy ministers with the assignment of drafting a state plan on combating terrorism.
- On September 24, the Council of Ministers of Bosnia and Herzegovina established the Joint Anti-Terrorist Coordination Team, among the first ones in Europe, and also adopted the Plan of Action of Institutions of Bosnia and Herzegovina on Prevention of Terrorist Activities and Actions,
- Right after the adoption of UN Security Council Resolution 1373, the Coordination Team initiated inquires with the Banking Agency of the Federation of BiH to check assets and funds of clients against the list of suspect individuals and agencies and to freeze any suspect funds without delay.
- On October 4, the Council of Ministers of BiH, on the initiative of the Coordination Team, adopted new visa policy which closely corresponds to "Schengen Visa Policy" and which is targeted towards more complete and better control of foreign entries into BiH.
- On November 11, Bosnia and Herzegovina has signed and expects to ratify in the near future UN Convention for the Suppression of the Financing of Terrorism.

The Joint Coordination Team for Realization and Monitoring of the Plan of Activities of BiH Institutions and Entities Concerning Prevention of Terrorist Activities and Actions meets once a week at least. Representatives of International Community in Bosnia and Herzegovina including OHR, UNMIBIH, SFOR, IPTF, USA and EU Embassies regularly attend and actively participate in the work of the Team.

Cooperation and coordination between the representatives of International Community and institutions of BiH has improved at all levels, work has been fostered regarding all activities stipulated by the Plan of Activities of BiH Institutions and Entities Concerning Prevention of Terrorist Activities and Actions, in particular between Ministries of Interior, State Border Service of BiH, INTERPOL and Intelligence Services in BiH.

LEGISLATIVE MEASURES:

In terms of upgrading of the existing legal regulations, the Coordination Team has urged the adoption of set of laws from the CIPS Project, by the Parliamentary Assembly of BiH. Those include Law on Identity Card, Law on Identity Code, Law on Residence-Domicile of BiH Citizens, Law on Central Evidence and Data Exchange and Law on Protection of Personal Data. Also, in regard to normative-legal regulations, in cooperation with the representatives of International Community, a set of laws had been considered and forwarded to competent institutions for consideration and adoption. This relates to either passing of roof laws at the State level or in changes of and amendments to the existing statutory solutions. This set consists of Act amendments of the Criminal Law of both Entities, enactment of the Criminal Law and the Law on Criminal Proceedings of BiH, Act amendments of the Law on Asylum and Immigration, Act amendments of the Law on BiH Citizenship, etc.

Further measures have been undertaken concerning the enactment of the Law on Intelligence Services in the Federation of BiH, where the competent authorities, by transformation of the management in the two existing services, AID and SNS, considerably speeded up the process of integration of intelligence services throughout the Federation of BiH. This to a large extent resulted in far better efficiency and more organized work of these services, which had a positive impact for the work of the Coordination Team. For the first time since 1992, full cooperation has been established between the two above mentioned intelligence services.

Furthermore, the Presidency of BiH initiated the enactment of the Law on Agency for Protection and Investigation (at the state level – investigation of terrorist actions and other forms of organized crime).

INVESTIGATION AND PROSECUTION OF SUSPECTED ACTS AND PERSONS:

The Ministries of Interior of the Entities have formed specialized teams to fight against terrorism together with competent courts and prosecutors' offices, thus improving cooperation in regard to initiation of investigations.

The specialized teams have detained eighteen (18) persons (some of actions taken in cooperation with SFOR) who may be connected with or involved in terrorist actions in BiH and abroad, out of whom eight (8) persons have been already deported to their countries of origin. Six (6) persons are currently in custody because of a suspected involvement in criminal actions in cooperation with persons identified as members of terrorist networks of international terrorism. Documentation and evidence gathering and processing of terrorist

activities is under way for fourteen (14) other persons, all naturalized foreigners. The process of identification, location and reexamination of the work of eleven (11) international foreign humanitarian organizations is also under way, as well as of the work of the associations of citizens of BiH, for whom there is suspicion of dealing, indirectly or directly, with suspected terrorist organizations.

FINANCIAL ACTIVITIES:

In regard to operative paragraph 1 of the Security Council Resolution 1373/2001, Prevention and Suppression of Financing of Terrorist Acts, the Coordination Team requested from the Banking Agency of the Federation of BiH to check assets and funds of clients against the list of suspect individuals and agencies and to freeze any suspect funds without delay.

The large scale investigation was conducted in FBiH and most of the banks within FBiH had no records of any assets related to the list of suspects. However, upon this request Vakufska Banka froze the account of a citizen of Saudi Arabia, which amounts to 3,5 million DM, as well as the account of an Investment Company from the Middle East, which also amounts to 3,5 million DM.

The Plan of Activities, included implicitly the collection of data for all individuals and organizations that refer to examination of financial transactions, in other words, accounts and deposits (in accordance with the Security Council Resolution No.1333), so that besides the mentioned ones, investigation of other 3000 (aprox.) individuals is also under way.

REGISTRATION AND INFORMATION ACTIVITIES:

Measures have been taken concerning completion of registration of international, humanitarian and other foreign organizations, as well as of listing and registration of personnel employed in those organizations.

Measures have been undertaken in terms of urgent solution and rendering expert assistance in overcoming the problems of direct, protected and prompt information exchange (putting together of telecommunications, networks of PTT in BiH and establishment of a special system of communications) between Entities' Ministries of Interior, and within the Ministries (FBiH), BiH State Border Service, BiH INTERPOL and other BiH and Entities' institutions working on issues of prevention of terrorist actions, that is, between the said local institutions and all present representatives of International Community. In this respect, an issue of establishment of Police and Border Control Information System has been planned and it will become fully operational soon. This system would include all police forces in BiH and State Border Service (SBS).

BORDER CONTROL ACTIVITIES:

The process of implementation of SBS BiH has been speeded up throughout BiH (currently 75% of border covered by the State Border Service, as well as airports and completion of establishing of full control system of the two remaining airports is a matter of weeks). Full deployment of State Border Service of BiH has been planned to be implemented in March 2002, instead of December 2002.

A range of measures has been undertaken regarding establishment of functional BiH Civil Aviation Directorate and more efficient work of Customs Administration in the Entities.

Special regime of entry has been brought into operation for foreign citizens coming by airplanes – Landing Card (entry form for foreigners entering BiH).

Within the scope of work of two Commissions of the Council of Ministers of BiH, meticulous and systematic revision has been carried out of all papers on citizenship and passports issued to the persons of foreign origin from 1992 till October 2001.

The Council of Ministers of BiH, on the initiative of the Coordination Team, adopted new visa policy which is by its content very similar to "Schengen one" aimed at more complete and better control of foreign entries into BiH.

OTHER ACTIVITIES:

The initiative has been given for establishment of the Center for Special Police Training which is supposed to be sponsored by EU.

The Coordination Team, at its regular weekly meetings, further undertakes all the measures and actions for the purpose of sustaining efforts in the coming months and for the better realization of activities stipulated by the said Plan.

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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Jamaica, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-20726 (E) 250102 050302

Annex

[Original: English]

Letter dated 24 December 2001 from the Permanent Representative of Jamaica to the United Nations addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

In accordance with instructions from my Government, I have the honour to enclose, pursuant to paragraph 6 of resolution 1373 (2001), Jamaica's report to the Security Council Committee established pursuant to resolution 1373 (2001) of 28 September 2001, concerning counter-terrorism (see enclosure).

The Government of Jamaica stands ready to provide the Committee with further reports or information as necessary or if so requested by the Committee.

(*Signed*) Patricia **Durrant**
Ambassador
Permanent Representative

Enclosure

The Permanent Mission of Jamaica to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1373 (2001) of September 28, 2001, concerning Counter-Terrorism, and has the honour to provide the following information on Jamaica's implementation of Security Council resolution 1373 (2001).

Jamaica has no legislation specific to terrorism or terrorist acts. Therefore, the several pertinent public agencies have been instructed to review existing legislation and regulations to determine their amenability to amendment, or whether new legislation will need to be enacted. This is the first stage in the legislative process, which is expected to be completed during the current legislative session.

At the same time, Jamaica is studying the legislation and procedures adopted by countries with a similar legal system, to enable their implementation of Security Council resolution 1373 (2001).

Existing legislation which allows for the forfeiture of assets, is predicated on the commission of acts other than terrorism, such as money laundering and drug related offences. Both the Money Laundering and Drug Offences (Forfeiture of Proceeds) Acts require amendment for the inclusion of terrorism in the list of offences, with the specification of appropriate penalties. This process is already underway. Till such amendments are enacted, suspected terrorists' assets may be frozen, by an order of the Court, pursuant to a civil action, if it is suspected that such assets may be removed from the jurisdiction of the Court, thereby depriving the plaintiff of the possibility of obtaining damages.

The Ministry of Finance and Planning and the Bank of Jamaica have been provided with the lists of individuals and organizations linked with terrorist entities. Investigations to date have not revealed that any listed person or organization has assets in Jamaica.

On November 11, 2001, the Prime Minister of Jamaica signed the International Convention for the Suppression of the Financing of Terrorism. The intention is that the legislative process underway will also permit Jamaica's ratification of this Convention in the shortest possible time.

The Security Council Committee established pursuant to resolution 1373 (2001) concerning Counter-Terrorism will be kept briefed of progress achieved in the legislative process, as well as of other relevant developments.

The Permanent Mission of Jamaica to the United Nations avails itself of this opportunity to renew to the Security Council Committee established pursuant to resolution 1373 (2001) of September 28, 2001 concerning Counter-Terrorism the assurances of its highest consideration.

New York, December 24, 2001